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In re: TERRORIST ATTACKS ON SEPTEMBER 11, 2001 03-MDL-1570 (GBD)(SN)

April 28, 2021

The Honorable Sarah Netburn, U.S. Magistrate
Judge
United States District Court for the S.D.N.Y.
Thurgood Marshall U.S. Courthouse, Room 430
40 Foley Square
New York, NY 10007

Re: DEFENDANT JELAIDAN'S OPPOSITION TO PLAINTIFF'S LETTER MOTION
TO COMPEL (ECF 6753)

Dear Judge Netburn,

Defendant Wael Jelaidan, through undersigned counsel, offers this letter in opposition to Plaintiff's Letter Motion to Compel (ECF 6753).

The Motion should be denied for cause at detailed herein. Upon further consideration and ongoing dialog with his counsel in Saudi Arabia, Defendant Jelaidan has offered a viable remedy.

1. Mr. Jelaidan has NOT refused to sit for a deposition in the above captioned case. Rather he offered dates that were suitable to him schedule and his religious obligations. He offered last week in March or the second week of August. Plaintiffs declined the March dates and the August dates.

2. As reflected in the exhibits to Plaintiff Motion, undersigned counsel has spent considerable time corresponding with Mr. Jelaidan's Saudi Arabia attorney Dr. Basim Alim.

3. Plaintiffs' letter motion asks that Mr. Jelaidan be available for a deposition between June 14, 21021 and July 16, 2021. He also asked that Plaintiffs allow: a) his own translator, b) that the deposition time period adhere to the FRCP Rule 30(d)(1) of 1 day of 7 hours, c) that his Saudi attorney be allowed to attend.

4. In an email received on April 28, 2021, Dr. Alim has offered the following on behalf of Defendant Jelaidan:

1. Mr. Jelaidan will be available any time after July, 2021 but before the end of August;

2. Mr. Jelaidan will answer the disposition in English, to the best of his ability, eliminating the need for a translator.

3. While undersigned attorney will defend Mr. Jelaidan's deposition via video feed, he is unable for health reasons¹ to travel to Saudi Arabis to do it in person.

4. Mr. Jelaidan has reiterated his request that the Court allow his Saudi attorney (Alim) to attend the deposition—even in a silent posture, simply to ensure Jelaidan is comfortable in a foreign adversary proceeding.

Thus, Defendant Jelaidan asks the Court to order the deposition for August, extending discovery if necessary.

Furthermore, Defendant Jelaidan respectfully asks the Court to reconsider allowing the attendance of Saudi attorney Alim at the deposition, a condition that will likely enhance the success of the deposition rather than detract from it, as Plaintiffs seem to think.

Respectfully,

/s Martin McMahon

Martin F. McMahon, Esq.

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Attorney for Defendant

¹ Counsel suffers from end stage renal disease; he attends dialysis treatments three to four times each week.

CERTIFICATE OF SERVICE

I certify that on April 28, 2021, I filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notice of this filing to all parties registered to receive such notice, including plaintiffs' counsel.

/s/ Martin F. McMahon

Martin F. McMahon, Esq.